

### **REMARKS**

This response is intended as a full and complete response to the non-final Office Action mailed June 5, 2008. In the Office Action, the Examiner notes that claims 16-32 are pending and rejected.

In view of the following discussion, Applicants submit that all of the claims satisfy the requirements of 35 U.S.C. §112. Thus, Applicants believe that all of these claims are now in allowable form.

It is to be understood that Applicants do not acquiesce to the Examiner's characterizations of the art of record or to Applicants subject matter recited in the pending claims. Further, Applicants are not acquiescing to the Examiner's statements as to the applicability of the prior art of record to the pending claims by filing the instant response. Applicants respectfully request reconsideration and allowance of the claims in view of the following remarks.

#### **I. REJECTION OF CLAIM 16-32 UNDER 35 U.S.C. § 112 ¶ 1**

Claims 16-32 are rejected under 35 U.S.C. §112, ¶1, as failing to comply with the written description requirement. The Applicants respectfully traverse the rejection. The Applicants respectfully submit that the claims are supported by Applicants' specification. Applicants herein attempt to more clearly provide support limitation by limitation to overcome the rejection under 35 U.S.C. §112.

The Applicants note the embodiments noted by the Examiner on page 3, lines 9-15 refer to only one embodiment of the Applicants' invention that is not relevant for the claims listed above. Immediately following the passage cited by the Examiner, the specification states "according to other embodiments, the system and method of the present invention provides access to interactive features of an electronic program guide by a user from within a broadcast advertisement." (See e.g., Applicants' specification, p. 3, ll. 16-18). As discussed below, these interactive features may include an option to record the advertisement currently being displayed.

The Examiner also disagrees with the Applicants' use of "advertisements" and "promotional programming" interchangeably. The Examiner states that because the word "or" clearly distinguishes between two separate entities. The Applicants

respectfully submit that the use of the word "or" within the specification is not definitive of whether or not "advertisements" and "promotional programming" may be used interchangeably.

Rather, the Applicants submit that the specification should be read as a whole. Notably, the terms are interchangeably used throughout the Applicants' specification. (See, p. 4, l. 16, "... recording the promotional advertisement ...," p. 12, ll. 2-3, "to access...advanced EPG features from within advertisements and other promotional," p. 15, ll. 4-5, "[a] check is performed to determine if a broadcast promotional advertisement has been selected...", emphasis added). Thus, advertisements and promotional or promotional programming may be used interchangeably.

Moreover, the Examiner refutes the Applicants' interpretation that "broadcast advertisement" is in the present tense. Notably, the examples referred to below, the broadcast promotional advertisement is currently being viewed. For example, the specification teaches that "[t]he check is performed when an advertisement is selected that is being broadcast..." (See e.g., Applicants' specification, p. 15, ll. 5-6). Thus, the embodiments discussed below clearly refer to a promotional advertisement currently being broadcast and viewed.

As previously argued, the Applicants' specification fully supports and describes the embodiment recited in claims 16-32.

For example, the Applicants' specification teaches that promotional metadata is broadcast in combination with programming and advertisement audio and video data. (See *Id.* at p. 9, ll. 10-11). Moreover, the promotional metadata comprises data items (see *Id.* at p. 10, ll. 2-3) including a promotion type, the promotion type including a purchasable event (see *Id.* at ll. 7-8) and an interactive advertisement (see *Id.* at ll. 13-15).

The specification teaches that the interactive advertisement is for example an interactive full screen advertisement that is presented to a viewer. (See *Id.* at ll. 13-14, emphasis added). The presentation software uses the data within the promotional metadata to drive the interactive functionality of the EPG within the broadcast advertisement. (See *Id.* at ll. 9-12). One of the EPG actions available from within the advertisement may be storing the advertisement (i.e. the advertisement being

presented). (See *Id.* at p. 11, ll. 6-9). Therefore, Applicants respectfully submit that Applicants' claims are fully supported by the specification.

In another example, the Applicants' invention teaches that a check is performed to determine if a broadcast promotional advertisement is selected and that the check is performed when an advertisement is selected that is being broadcast. (See e.g., Applicants' specification, p. 15, ll. 4-7). Subsequently, the presentation software uses parsed metadata to determine the EPG controls that may be presented and used in conjunction with the broadcast advertisement (i.e. the selected and currently broadcasting promotional advertisement noted above). (See *Id.* at ll. 12-14). Eventually, a check is performed to determine if an advertisement storage action tag has been parsed. (See *Id.* at p. 16, ll. 17-18). If the tag (i.e. the advertisement storage tag) is parsed, then an associated graphical control presents the option of saving the advertisement (i.e. the currently selected and broadcasted promotional advertisement) to a storage device. (See *Id.* at ll. 18-23).

Moreover, in yet another example, FIG. 6 also supports the Applicants' claims. The specification teaches "[a]dvertisement [sic] or other promotional programming is distributed by a content provider. . ." (See e.g., Applicants' specification, p. 17, ll. 21-22). Notably, "advertisements" and "promotional programming" may be interchangeably used as discussed above. Notably, one of the EPG options available is to "record the advertisement". (See *Id.* p. 18, l. 5, emphasis added). Notably, advertisement is not introduced anywhere previously within the context of FIG. 6 except for the introduction of "advertisement or other promotional programming," as noted above. Consequently, "the advertisement" refers to "a promotional" that is currently being viewed. (See *Id.* at p. 17, l. 23 – p. 18, l. 8). Therefore, the option to record the advertisement is an option to record the advertisement or promotional that is currently being viewed.

FIG. 6 illustrates an example of this interaction. For example a user may select to store the promotional advertisement for future viewing of the advertisement on the storage device. (See *Id.* at p. 18, ll. 1-9). Subsequently, the option is executed and the promotional advertisement is stored for future viewing. (See *Id.*).

Applicants believe that this is entirely consistent with the earlier portions of the specification that teaches EPG actions are available from within the broadcast advertisement. (See e.g., Applicants' specification, p. 11, ll. 2-3, emphasis added). Notably, the specification is not referring to a "broadcasted" advertisement in the past or an advertisement that will be broadcast in the future, but rather "the broadcast advertisement" in the present tense. As noted above, the Applicants' specification clearly teaches embodiments where an advertisement is selected, broadcasted and options to record the advertisement are presented while the advertisement is broadcasting. (See e.g., Applicants' specification, p. 16, ll. 17-23, p. 17, l. 21 – p. 18, l. 8; FIG. 6). Therefore, Applicants respectfully submit that the embodiment that Applicants are claiming is clearly present within the specification.

As such, Applicants submit that claims 16-32 are patentable under 35 U.S.C. §112, ¶1. Therefore, the rejection should be withdrawn.

**CONCLUSION**

For the foregoing reasons, Applicants respectfully request reconsideration and passage of the claims to allowance. If, however, the Examiner believes that there are any unresolved issues requiring adverse final action in any of the claims now pending in the application, it is requested that the Examiner telephone Eamon J. Wall or Jimmy Kim at (732) 530-9404 so that appropriate arrangements can be made for resolving such issues as expeditiously as possible.

Respectfully submitted,

9/4/08

EJ Wall

Eamon J. Wall  
Attorney, Reg. No. 39,414  
(732) 530-9404

Patterson & Sheridan, LLP  
595 Shrewsbury Avenue  
Suite 100  
Shrewsbury, New Jersey 07702